IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 25675 of 2006(F)

PETITIONER:

A.J. JOSE,
RESIDING AT ELAVATHINGAL PAROKKARAN HOUSE,
MANGALASSERY, KORATTY SOUTH P.O., THRISSUR DIST.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.SREEKANTH.K.R
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS:
----

1. **THE STATE OF KERALA,**
   REPRESENTED BY THE DISTRICT COLLECTOR, THRISSUR.

2. **THE DISTRICT SUPERINTENDENT OF POLICE,**
   THRISSUR.

***ADDL.R3 IS IMPLEADED:**

R3. THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

(*ADDL.R3 IS IMPLEADED AS PER ORDER DTD. 23/11/2007
IN I.A.NO.15028/2006)

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 25675 of 2006

Dated this the 23rd November, 2007

J U D G M E N T

The petitioner retired from service as a Driver from Kerala Police on 30.4.2003 While in service on 18.1.2003 when he was driving a police bus , the same met with an accident resulting in the death of one Sasi. According to the petitioner, the deceased Sasi was a mental patient undergoing treatment at the Mental Hospital, Thrissur. He had left the hospital without anybody noticing him. A crime was registered against the petitioner for offences under Sections 279 and 304 (A) of I.PC. But after investigation, on realising the fact that the deceased was a mental patient, the same was deferred. The wife of the deceased preferred a claim before the Motor Accidents Claims Tribunal, Irinjalakuda and it ultimately led to Exhibit-P1 Award, wherein, the Government who is the owner of the vehicle and the petitioner -driver were made liable for the Award amount of Rs.1,05,300/- plus interest thereon.

2. It seems that thereafter the Government satisfied the Award by paying an amount of Rs.201273/- to the claimant under Exhibit-P1. Thereafter, Exhibit-P2 has been issued by the

Government seeking to recover the said amount from the petitioner. Petitioner submitted Exhibit-P3 objection before the Superintendent of Police, Thrissur, who had issued Exhibit-P2. But it seems that decision has been taken to recover the said amount from the petitioner by recourse to the procedure proposed under the Revenue Recovery Act.

3. Subsequently, the petitioner has moved the Government by Exhibit-P5 representation produced along with I.A.No.15031/2006. Petitioner sought for impleading the Government also vide I.A. No.15028 of 2006.

4. In terms of Exhibit-P1 Award, liability of the petitioner and the Government seems to be joint and several. But that by itself does not prevent the Government from taking note of all circumstances and coming to the decision where it is necessary to proceed against the petitioner, a retired driver for realisation of amount by which the Government was also liable in terms of Exhibit - P4.

In the circumstances, after hearing the learned counsel for the petitioner and the learned Government Pleader, this writ

petition is disposed of directing the additional 3rd respondent, viz., the Government to consider Exhibit-P5, after hearing the petitioner, and take a decision thereon, within six months from the date of receipt of a copy of this judgment. Further proceedings pursuant to Exhibit-P2 shall be kept in abeyance pending a decision by the Government in the manner aforementioned.

(V.GIRI, JUDGE)

ma

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007